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SERVICE DATE - APRIL 10, 2002

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34186]

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch—Control Exemption—The New York and Ogdensburg Railway Company, Inc.

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch, noncarrier individuals (applicants), have filed a verified notice of exemption to acquire control through stock ownership of The New York and Ogdensburg Railway Company, Inc. (NYOG), a noncontiguous Class III railroad.<sup>1</sup>

The transaction was scheduled to be consummated on or after March 22, 2002, the effective date of the exemption.

Applicants control four other Class III rail carriers: Vermont Railway, Inc., and Clarendon & Pittsford Railroad Company, both operating in the States of Vermont and New York; Green Mountain Railroad Corporation, operating in the States of Vermont and New Hampshire; and Washington County Railroad Company, operating in the State of Vermont. Applicants are proposing to acquire 175 shares (a majority) of common stock in NYOG. Of the 175 shares, David W. Wulfson, Lisa W. Cota, and Gary E.

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<sup>1</sup> See The New York & Ogdensburg Railway Company, Inc.—Lease and Operation Exemption—Ogdensburg Bridge & Port Authority, STB Finance Docket No. 33658 (STB served Oct. 1, 1998).

Wulfson agreed to purchase 43.75 shares each and Richard C. Szuch and Peter A. Szuch agreed to purchase 21.875 each.

Applicants states: (i) the properties of subsidiaries and affiliates will not connect with each other; (ii) the acquisition and continuance in control are not part of a series of anticipated transactions that would connect the rail lines of subsidiaries and affiliates with each other; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings referring to STB Finance Docket No. 34186, must be filed with the Surface Transportation Board, Office of Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Andrew P. Goldstein, McCarthy, Sweeney & Harkaway, P.C., Suite 600, 2175 K Street, N.W., Washington, DC 20037.

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Decided: April 2, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary